

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR**

THURSDAY, THE 13TH SEPTEMBER 2007 / 22ND BHADRA 1929

WP(C).No. 25088 of 2006(J)

RCP.9/2005 of M.C.,PARAPPANANGADI

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PETITIONER:

**K.V. PREMAN,
S/O. KANDARUVEETIL RAMAKRISHNAN,
TIRURANGADI TALUK, THRIKULAM AMSOM AND DESOM.**

**BY ADV. SRI.T.KRISHNAN UNNI
SRI.C.M.MOHAMMED IQUABAL**

RESPONDENT:

**K.V. GOPI,
S/O. KANDARUVEETIL RAMAKRISHNAN,
TIRURANGADI TALUK, THRIKULAM AMSOM AND DESOM.**

**BY ADV. SRI.K.T.SHYAMKUMAR
SRI.HARISH R. MENON**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PETITIONERS' EXHIBITS:-

- Ext.P1:** Copy of RCP.9/05 on the file of the Rent Control (Munsiff) Parappanangadi, dtd.21/08/2006.
- Ext.P2:** Copy of the counter dtd.-/07/05 filed in RCP. 9/05, Court of Rent Control (Munsiff), Parappanangadi.
- Ext.P3:** Copy of the plan and report by the Advocate Commissionier dtd.1.6.2005.
- Ext.P4:** Copy of the affidavit in support of IA.No.1265/05 in RCP.9/05 Court of the Rent Controller, Parappanangadi, dtd.18.8.2006.
- Ext.P5:** Copy of the Commissioner's plan and report dtd.17.2.2006.
- Ext.P6:** Copy of the affidavit in support of the interlocutory application IA.No.922/2005 in RCP.9/05, Court of the Rent Controller (Munsiff) Parappanangadi, dtd. /08/2006.
- Ext.P7:** Copy of the counter in IA.No.922/05 dtd. Nil by the petitioner.
- Ext.P8:** Copy of the order in IA.No.922/06 dtd.25.8.2006 on the file of the Court of the Rent Control (Munsiff), Parappanangadi.

RESPONDENTS' EXHIBITS:- NIL.

(true copy)

P.S. TO JUDGE.

Kvs/-

K. Balakrishnan Nair & T.R. Ramachandran Nair, JJ.

W.P.(C).NO.25088 of 2006-J

Dated this the 13th day of September, 2007

JUDGMENT

Balakrishnan Nair J.

The petitioner is the landlord and the respondent is the tenant. This writ petition under Article 227 of the Constitution of India, is filed challenging Ext.P8 order of the Rent Control Court setting aside two commission reports filed by the Advocate Commissioner Shri U.V. Surendran. The Commission was sent on the motion made by the landlord to report about the building stated to be newly constructed by him. On the motion made by the tenant, the Commissioner submitted a second report also. Later, the tenant moved for setting aside both the reports and for appointing a new Commission. Ext.P6 is that application. The Rent Control Court considered the said application and allowed it by Ext.P8.

2. Learned counsel for the petitioner attacks that the order is not supported by any reasons. Every judicial order affecting the rights of parties should be a reasoned order. The Rent Control Court could have remitted the matter to the very same Commissioner for a fresh report. Further, the prayer to appoint a fresh Commission is also not allowed. The

result is that there is no report. The petitioner submits, he will suffer serious prejudice as a result of Ext.P8. So, he prays to set aside it.

3. We heard learned counsel for the respondent also. We notice that no reasons have been stated in Ext.P8 for setting aside both the reports. We agree with the contention of the learned counsel for the petitioner in this regard. When an order is passed setting aside a Commission report, it should be supported by cogent reasons. It is true, the impugned order contains an observation that there are differences between the first and second report, but further details are not forthcoming.

In view of the above position, Ext.P8 is set aside. Ext.P6 is remitted to the Rent Control Court for passing fresh orders in the matter after hearing both sides.

The Writ Petition is disposed of in the above terms.

(K. Balakrishnan Nair, Judge.)

(T.R. Ramachandran Nair, Judge.)

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